

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Oct 29 2004
U.S. PATENT & TRADEMARK OFFICE
Docket No. 9120

AF/8
RECEIVED

NOV 01 2004

Technology Center 2600

Application of

John C. Goodwin III et al.

Serial No. 09/727,290

Group Art Unit: 2674

Filed: November 29, 2000

Examiner: Abdulselam

For: **METHOD OF DISPLAYING INFORMATION BY A NETWORK KIOSK**

MS Appeal Brief-Patent
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING
(37 CFR 1.8a)

I hereby certify that this correspondence is, on the date shown below, being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, Alexandria, VA 22313.

10-27-2004 Karen A. Church

Date

Karen A. Church

Sir:

Transmitted herewith for filing is an Appeal Brief **and two copies** thereof to the Final Rejection dated May 25, 2004.

Please charge Deposit Account No. 14-0225 for the Appeal Brief fee or any other fees associated with the filing of said Appeal Brief.

Please charge any additional fees to the account of NCR Corporation, Deposit Account No. 14-0225.

Our telephone number is: (937) 445-2990.

Respectfully,


Attorney for: John C. Goodwin III et al.



Attorney Docket No. 9120

Application of:

John C. Goodwin III et al.

Art Unit: 2674

Serial No.: 09/727,290

Examiner: A. Abdulsalam

Filed: November 29, 2000

For: **METHOD OF DISPLAYING INFORMATION BY A NETWORK KIOSK**

MS Appeal Brief-Patent
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING

(37 CFR 1.8a)

I hereby certify that this correspondence is, on the date shown below, being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, Alexandria, VA 22313.

0-27-2004 Karen A. Church

Date

Karen A. Church

APPEAL BRIEF

Sir:

Appellants have filed a timely Notice of Appeal from the action of the Examiner, dated May 25, 2004, finally rejecting all of the claims in the present application. This Appeal Brief is filed in accordance with the provisions of 37 C.F.R. 1.192.

REAL PARTY IN INTEREST

The real party in interest is NCR Corporation.

11/01/2004 JADDO1 00000012 140225 09727290

01 FC:1402 340.00 DA

RELATED APPEALS AND INTERFERENCES

There are no related appeals and interferences.

STATUS OF THE CLAIMS

Claims 1-8 are pending in the application.

Claims 1-8 stand rejected under 35 USC 103(a), as unpatentable over Waters (6,256,046) in view of Christian (6,163,822) and Favalora (6,512,498).

Appellants have attached Claims 1-8 as Appendix A to this Appeal Brief.

STATUS OF AMENDMENTS

Appellant did not file a Response subsequent to the Final Rejection.

SUMMARY OF THE INVENTION

Claims 1-4 and 8 relate to a method of displaying information by a network kiosk 12 (Figs. 1-2; page 3, line 12 and throughout).

As embodied in claim 1, the invention includes sensing a person passing within a predetermined distance of the kiosk 12 by a proximity sensor 30 (page 6, lines 9-12) of the kiosk 12, displaying first information (page 6, lines 19, 20; page 7, lines 1, 2; Fig. 2) in response to said sensing step by a display 40 (page 5, line 17) of the kiosk 12 to attract attention of the

person to the first information of the display 40 and to attempt to persuade the person to approach and use the kiosk 12 (page 5, lines 12-16), timing a time period of displaying the first information (page 7, lines 3, 4; Fig. 2), and displaying second information which is less distinctive than the first information by the display 40 if the person does not begin use of the kiosk 12 within the time period (page 7, lines 17-22; Fig. 2).

As embodied in claim 2, the invention includes sensing a person passing within a predetermined distance of the kiosk 12 by a proximity sensor 30 (page 6, lines 9-12) of the kiosk 12, displaying first information (page 6, lines 19, 20; page 7, lines 1, 2; Fig. 2) in response to said sensing step by a display 40 (page 5, line 17) of the kiosk 12 to attract attention of the person to the first information of the display 40 and to persuade the person to approach and use the kiosk 12, timing a time period of displaying the first information (page 5, lines 12-16), and displaying second information which is less distinctive than the first information by the display 40 if the person is no longer within the predetermined distance of the kiosk 12 and the time period has expired (page 7, lines 17-22; Fig. 2).

As embodied in claim 3, the invention includes displaying first information (page 4, lines 26-30; page 5, lines 7-11) by a display 40 (page 5, line 17) of the kiosk 12, sensing a person passing within a predetermined distance of the kiosk 12 by a proximity sensor 30 (page 6, lines 9-12) of the kiosk 12,

displaying second information which is more distinctive than the first information by the display 40 in response to said sensing step to attract attention of the person to the second information of the display 40 and to persuade the person to approach and use the kiosk 12 (page 4, lines 30, 31; page 5, lines 12-16), timing a time period of displaying the second information (page 7, lines 3, 4; Fig. 2), and displaying third information by the display 40 if the person is no longer within the predetermined distance of the kiosk 12 and the time period has expired (page 7, lines 17-22; Fig. 2).

As embodied in claim 4, the invention includes displaying first information (page 6, lines 19, 20; page 7, lines 1, 2; Fig. 2) by a display 40 (page 5, line 17) of the kiosk 12, sensing a person passing within a predetermined distance of the kiosk 12 by a proximity sensor 30 (page 6, lines 9-12) of the kiosk 12, determining second information for display by the display 40 which is more distinctive than the first information in response to said sensing step 12 (page 5, lines 12-16), wherein the second information attracts attention of the person to the second information of the display and to persuade the person to approach and use the kiosk 12, displaying the second information by the display 40, timing a time period of displaying the second information to wait for the person to operate the kiosk 12 (page 7, lines 3, 4; Fig. 2), determining third information for display which is less distinctive than the second information when the

person is no longer within the predetermined distance of the kiosk 12 and the time period has expired, and displaying the third information by the display 40 (page 7, lines 17-22; Fig. 2).

As embodied in claim 8, the invention includes sensing a person passing within a predetermined distance of the kiosk 12 by a proximity sensor 30 (page 6, lines 9-12) of the kiosk 12, displaying first information and playing a sound (page 6, lines 19, 20; page 7, lines 1, 2; Fig. 2; page 5, lines 14, 15) in response to said sensing step to attract attention of the person to the first information of the display 40 (page 5, line 17) and to persuade the person to approach and use the kiosk 12 (page 5, lines 12-16), timing a time period of displaying the first information and playing the sound (page 7, lines 3, 4; Fig. 2), and displaying second information which is less distinctive than the first information and stopping the sound if the person does not begin use of the kiosk 12 within the time period (page 7, lines 17-22; Fig. 2).

Claim 5-7 relate to a network kiosk 12 (Fig. 1).

As embodied in claim 5, the invention includes a display 40 for displaying information, a proximity sensor 30, and a computer 16 which senses a person passing within a predetermined distance of the kiosk 12, displays first information in response to sensing the person to attract attention of the person to the first information of the display 40 and to persuade the person to

approach and use the kiosk 12, times a time period of displaying the first information, and displays second information which is less distinctive than the first information if the person does not begin use of the kiosk 12 within the time period.

As embodied in claim 6, the invention includes a display 40 for displaying information, a proximity sensor 30, and a computer 16 which senses a person passing within a predetermined distance of the kiosk 12, displays first information in response to sensing the person to attract attention of the person to the first information of the display 40 and to persuade the person to approach and use the kiosk 12, times a time period of displaying the first information, and displays second information which is less distinctive than the first information if the person is no longer within the predetermined distance of the kiosk 12 and the time period has expired.

Dependent claim 7 adds that the proximity sensor 30 includes an ambient light sensor which senses a drop in ambient light when the person is within the predetermined distance.

ISSUE

The issue presented by this appeal is:

Whether Claims 1-8 are unpatentable under 35 USC 103(a) over Waters (6,256,046) in view of Christian (6,163,822) and Favalora (6,512,498).

GROUPING OF CLAIMS

Appellants believe that the claims should not be grouped together. The claims have separate features which make them separately patentable.

ARGUMENT

Waters (6,256,046) teaches an interactive kiosk 50 with a number of cameras 60, 65, and 70 and a visual sensing module 15 for sensing and classifying objects recorded by the cameras. A behavior module 25 formulates actions for reacting to the behavior of a kiosk user.

Christian (6,163,822) teaches a kiosk 10 including a video camera 16 for determining the presence or absence of a user. The kiosk displays a face which visually and aurally speaks different text messages from a command file to a kiosk user. One of the functions in the command file is a pause command which pauses kiosk command processing from the command file for a specified time period.

Favalora (6,512,498) teaches an optional sensor 48 for obtaining information about the presence or position of a viewer of display 10. Favalora suggests using the information from the sensor to adjust the viewing angle of display 10, or to activate

the display 10 to attract a viewer's attention and deactivate the display 10 when the viewer departs to conserve power.

I. THE REJECTION OF CLAIMS 1-8 UNDER 35 U.S.C. §103(a) IS
IMPROPER BECAUSE THE EXAMINER HAS FAILED TO PRODUCE REFERENCES
WHICH IN COMBINATION TEACH EACH AND EVERY ELEMENT OF APPELLANTS'
CLAIMS.

In the Final Rejection, the examiner has suggested that it would have been obvious to one of ordinary skill in the art to utilize Christian's software, including it's timing functions, with the kiosk of Waters for the purpose of displaying some information in less distinctive way than the others, to add Favalora's display activation to attract the attention of a person nearby a kiosk, and to use Christian's speakers to play the information.

However, the Examiner has failed to produce a reference which discloses changing displayed information to attract a person to use the kiosk, or changing displayed information after a person fails to use the kiosk. The pause function of Christian is directed to controlling the computer generated face and is unrelated to timing a time period for displaying information or playing a sound for attracting a person to use the kiosk. Favalora teaches display/activation and deactivation as part of a

power-saving feature, which is not the same as changing displayed information from first information to second information for attracting a person to use the kiosk, or changing displayed information after a person fails to use the kiosk. Christian teaches use of speakers to play different sounds from the computer face, which is not the same as playing a sound to attract a person to use the kiosk and stopping playing of the sound if the person fails to use the kiosk.

Thus, with respect to claim 1, the cited references fail to disclose:

displaying first information in response to said sensing step by a display of the kiosk to attract attention of the person to the first information of the display and to attempt to persuade the person to approach and use the kiosk;

timing a time period of displaying the first information; and

displaying second information which is less distinctive than the first information by the display if the person does not begin use of the kiosk within the time period.

With respect to claim 2, the cited references fail to disclose:

displaying first information in response to said sensing step by a display of the kiosk to attract attention of the person to the first information of the display and to persuade the person to approach and use the kiosk;

timing a time period of displaying the first information; and

displaying second information which is less distinctive than the first information by the display if the person is no longer within the predetermined distance of the kiosk and the time period has expired.

With respect to claim 3, the cited references fail to disclose:

displaying second information which is more distinctive than the first information by the display in response to said sensing step to attract attention of the person to the second information of the display and to persuade the person to approach and use the kiosk;

timing a time period of displaying the second information; and

displaying third information by the display if the person is no longer within the predetermined distance of the kiosk and the time period has expired.

With respect to claim 4, the cited references fail to disclose:

determining second information for display by the display which is more distinctive than the first information in response to said sensing step;

wherein the second information attracts attention of the person to the second information of the display and to persuade the person to approach and use the kiosk;

displaying the second information by the display;

timing a time period of displaying the second information to wait for the person to operate the kiosk;

determining third information for display which is less distinctive than the second information when the person is no longer within the predetermined distance of the kiosk and the time period has expired; and

 displaying the third information by the display.

With respect to claim 8, the cited references fail to disclose:

 displaying first information and playing a sound in response to said sensing step to attract attention of the person to the first information of the display and to persuade the person to approach and use the kiosk;

 timing a time period of displaying the first information and playing the sound; and

 displaying second information which is less distinctive than the first information and stopping the sound if the person does not begin use of the kiosk within the time period.

With respect to claims 5-7 directed to a kiosk, the cited references fail to disclose:

Claim 5

 a computer which ... displays first information in response to sensing the person to attract attention of the person to the first information of the display and to persuade the person to approach and use the kiosk, times a time period of displaying the first information, and displays second information which is less distinctive than the first information if the person does not begin use of the kiosk within the time period.

Claims 6 and 7

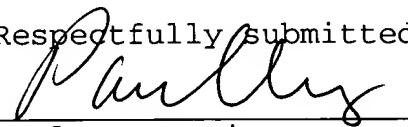
a computer which ... displays first information in response to sensing the person to attract attention of the person to the first information of the display and to persuade the person to approach and use the kiosk, times a time period of displaying the first information, and displays second information which is less distinctive than the first information if the person is no longer within the predetermined distance of the kiosk and the time period has expired.

II. CONCLUSION

Appellants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness and that the rejection of claims 1-8 is improper.

Appellants further submit that claims 1-8 are allowable and respectfully request that the rejection of claims 1-8 by the Examiner be reversed by the Board.

Respectfully submitted,



Paul W. Martin
Attorney for Appellants
Reg. No. 34870
(937) 445-2990

Dayton, Ohio

OCT 27 2004

Appendix A

1. A method of displaying information by a network kiosk comprising the steps of:

sensing a person passing within a predetermined distance of the kiosk by a proximity sensor of the kiosk;

displaying first information in response to said sensing step by a display of the kiosk to attract attention of the person to the first information of the display and to attempt to persuade the person to approach and use the kiosk;

timing a time period of displaying the first information; and

displaying second information which is less distinctive than the first information by the display if the person does not begin use of the kiosk within the time period.

2. A method of displaying information by a network kiosk comprising the steps of:

sensing a person passing within a predetermined distance of the kiosk by a proximity sensor of the kiosk;

displaying first information in response to said sensing step by a display of the kiosk to attract attention of the person to the first information of the display and to persuade the person to approach and use the kiosk;

timing a time period of displaying the first information; and

displaying second information which is less distinctive than the first information by the display if the person is no longer within the predetermined distance of the kiosk and the time period has expired.

3. A method of displaying information by a network kiosk comprising the steps of:

displaying first information by a display of the kiosk;

sensing a person passing within a predetermined distance of the kiosk by a proximity sensor of the kiosk;

displaying second information which is more distinctive than the first information by the display in response to said sensing step to attract attention of the person to the second information of the display and to persuade the person to approach and use the kiosk;

timing a time period of displaying the second information; and

displaying third information by the display if the person is no longer within the predetermined distance of the kiosk and the time period has expired.

4. A method of displaying information by a network kiosk comprising the steps of:

displaying first information by a display of the kiosk;

sensing a person passing within a predetermined distance of the kiosk by a proximity sensor of the kiosk;

determining second information for display by the display which is more distinctive than the first information in response to said sensing step;

wherein the second information attracts attention of the person to the second information of the display and to persuade the person to approach and use the kiosk;

displaying the second information by the display;

timing a time period of displaying the second information to wait for the person to operate the kiosk;

determining third information for display which is less distinctive than the second information when the person is no longer within the predetermined distance of the kiosk and the time period has expired; and

displaying the third information by the display.

5. A network kiosk comprising:

a display for displaying information;

a proximity sensor; and

a computer which senses a person passing within a predetermined distance of the kiosk, displays first information in response to sensing the person to attract attention of the person to the first information of the display and to persuade the person to approach and use the kiosk, times a time period of

displaying the first information, and displays second information which is less distinctive than the first information if the person does not begin use of the kiosk within the time period.

6. A network kiosk comprising:

a display for displaying information;
a proximity sensor; and
a computer which senses a person passing within a predetermined distance of the kiosk, displays first information in response to sensing the person to attract attention of the person to the first information of the display and to persuade the person to approach and use the kiosk, times a time period of displaying the first information, and displays second information which is less distinctive than the first information if the person is no longer within the predetermined distance of the kiosk and the time period has expired.

7. The network kiosk as recited in claim 6, wherein the proximity sensor comprises an ambient light sensor which senses a drop in ambient light when the person is within the predetermined distance.

8. A method of attracting a person to a network kiosk comprising the steps of:

sensing a person passing within a predetermined distance of the kiosk by a proximity sensor of the kiosk;

displaying first information and playing a sound in response to said sensing step to attract attention of the person to the first information of the display and to persuade the person to approach and use the kiosk;

timing a time period of displaying the first information and playing the sound; and

displaying second information which is less distinctive than the first information and stopping the sound if the person does not begin use of the kiosk within the time period.